IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 29263 of 2006(H)

PETITIONER:

LIONEL FLETCHER, T.C.27/1247,
FLETCHER BUILDINGS, VANCHIYOOR,
THIRUVANANTHAPURAM.

BY ADV. SRI.D.SAJEEV

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
COLLECTORATE, THIRUVANANTHAPURAM.

2. THE SPECIAL TAHSILDAR,
ADDL.L.A.UNIT, VANCHIYOOR,
THIRUVANANTHAPURAM.

3. THE SECRETARY,
THIRUVANANTHAPURAM DEVELOPMENT AUTHORITY (TRIDA),
THIRUVANANTHAPURAM.

BY ADV. SRI.K.A.JALEEL, SC, TRIDA
BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/02/2007 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

Ext.P1:- True copy of the award note in LAC No.82/05 issued by the 2nd respondent.

Ext.P2:- True copy of the application for reference filed by the petitioner before the 2nd respondent dated 20.12.2005.

Ext.P3:- True copy of the Notice in LAC No.82/2005 dated 19.12.2005 issued by the 2nd respondent.

Ext.P4:- True copy of the Certificate No.02/06 dated 31.12.2005 issued by the Village Officer, Vanchiyoor.

Ext.P5:- True copy of identification certificate No.03/06 dated 2.1.2006 issued by the Village Officer, Vanchiyoor.

Ext.P6:- True copy of the Will dated 13.6.1966 with the endorsement made by the 2nd respondent.

/true copy/

P.S. To Judge

M.SASIDHARAN NAMBIAR,J.

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W.P.(C) NO.29263 OF 2006

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Dated this the 8th day of February 2007

JUDGMENT

1.13 Ares of land in survey No.2841 (L.A.Re-sy.No.2841/2) of Vanchiyoor Village in Thiruvananthapuram Taluk belonging to petitioner was acquired for widening LMS-Attakulangara road and compensation was awarded in LAC 82/05. This petition is filed for a writ of mandamus directing second respondent, Special Tahsildar to disburse the amount awarded to the petitioner as compensation in the award. Case of the petitioner is that the award was passed on 17.12.05 and petitioner was directed to produce the documents and he produced them before the second respondent, but the compensation amount was not disbursed.

2. A counter affidavit was filed by second respondent admitting the acquisition and the award but contending that the amount was not disbursed awaiting final decision in W.P.(C) 5166/06. W.P.

(C) 5166/06 was filed by the tenants occupying the building standing in the acquired property contending that only a portion of the building was acquired and the unacquired portion cannot be demolished. On that ground respondents are not entitled to withhold the compensation payable to the petitioner. As pointed out by learned counsel appearing for petitioner, in counter affidavit itself second respondent admitted that petitioner had handedover possession of the property acquired on 25.12.05. If the case of the respondents is that physical possession of the building from the tenants was obtained, it is for the State to take actual possession. Petitioner is entitled to get the compensation awarded for the property acquired and taken possession by the State.

Writ Petition is allowed. Second respondent is directed to disburse the compensation amount due to the petitioner within thirty days from the date of receipt of a copy of this judgment.

M.SASIDHARAN NAMBIAR
JUDGE

tpl/-

M.SASIDHARAN NAMBIAR, J.

W.P.(C).NO. /06

JUDGMENT

SEPTEMBER,2006